

MR. DEPUTY SPEAKER.—The question is —

“That the Mysore Sales Tax (Amendment) Bill, 1972, be passed.”

*The motion was adopted and the Bill was passed.*

### **MYSORE SALES TAX (SECOND AMENDMENT) BILL, 1972 MOTION TO CONSIDER.**

SRI M.Y. GHORPADE. — I beg to move—

“That the Mysore Sales Tax (Second Amendment) Bill, 1972, be taken into consideration.”

MR. DEPUTY SPEAKER.—Motion moved.—

“That the Mysore Sales Tax (Second Amendment) Bill, 1972, be taken into consideration.”

†SRI M.Y. GHORPADE.—This Second Amendment pertains to only one point and therefore I do not think much discussion is required. However the point involved in this Bill is fairly important and deserves some explanation from me. As the Hon. Members know Section 13 (3) (b) of the Mysore Sales Tax Act, 1957, authorises recovery of the tax assessed or any other amount due under the Act, on application to any Magistrate, by such Magistrate as if it were a fine imposed by him. Some complications arose according to the decision of the High Court of Mysore. In a recent case, namely, M/S Mohanlal Premchand Vs Commercial Tax Officer and another the High Court of Mysore held that under Section 32 of the Code of Criminal Procedure, a Magistrate of the First Class has jurisdiction to impose a fine not exceeding two thousand rupees. Therefore the collection of Sales Tax due as if it was a fine by a Magistrate is not valid. This has become an hurdle and has come in the way of recovery or collection of taxes. The Criminal Procedure Code has not been attracted here. We have appealed to the Supreme Court. Our contention is the Magistrate is empowered under the Sales Tax Act to collect the tax as if it is a procedure under the Act and it is not in Criminal Procedure Code. A Magistrate can not recover any amount as if it were a fine in excess of the limit prescribed under Section 32 of the Code of Criminal Procedure. This is the decision of the High Court. We have appealed to the Supreme Court in this regard. We have made it very clear as if it were a fine only and it refers only to procedure and does not attract the provisions of the Criminal Procedure Code. As the disposal of the appeals by the Supreme Court may take some time and as the recovery of arrears has to be effected as expeditiously as possible, it is considered necessary to amend the Act to make it clear that a Magistrate can recover the tax

or amount due notwithstanding anything contained in the Code of Criminal Procedure, so that there may not be any interpretation on this point. The amendment of Section 13 will be like this:—For the words "on application to any Magistrate" the words 'notwithstanding anything contained in the Code of Criminal Procedure, 1898, on application to any Magistrate...' Naturally the Supreme Court will take a lot of time before a decision is given. Therefore, we are seeking the assent of the President. If the President gives his assent, it becomes legally alright and no Court can interpret in a matter of this type. Similarly the neighbouring States also are facing the same difficulty.

I can quote several other instances. For those interested, I have quoted at least seven or eight situations where this point is made clear in several other decisions and I do not think it is necessary to do all this at this stage and suffice it to say, that it is a simple Amendment whereby it is made clear that the Magistrate is collecting the arrears under the Sales Tax and it does not attract the attention of the Criminal Procedure Code. The intention is clarified by adding the words 'notwithstanding anything contained in the Code of Criminal Procedure'. And, since it will receive the assent of the President, on Court will be able to put the type of interpretation they are now putting. Otherwise, there will be considerable delay before the Supreme Court gives its ruling. We can once again ask the Magistrates to collect these dues as if it were a fine.

**SRI KAGODU THIMMAPPA.**—I want to know whether this Amendment can overcome the difficulties raised in the decision of the High Court.

**SRI M. Y. GHORPADE.**—Section 386 and Section 32 of the Code of Criminal Procedure are the two relevant sections. The Magistrate is acting under the Code of Criminal Procedure. ಅಲ್ಲಿ ಮ್ಯಾಜಿಸ್ಟ್ರೇಟ್ ಹಾಕಬೇಕಾದರೆ ಎರಡು ಸಾರಿಗಳಿಂದ ಜಾಸ್ತಿ ಹೋಗಬಾರದು ಎಂದು ಇದೆ. ಕ್ರಿಮಿನಲ್ ಪ್ರೊಸೀಜರ್ ಕೋಡ್ ಪ್ರಕಾರ ಕಲೆಕ್ಟ್ ಮಾಡುವುದಾದರೆ ಅದಕ್ಕೆ ಎರಡು ಸಾರಿಗಳ ಮಿತಿ ಇದೆ. ಅದಕ್ಕೆ ಈ ತಿದ್ದುಪಡಿ ಅನ್ವಯಿಸುತ್ತದೆ, he is acting on behalf of the Government under the Sales Tax Act. ಎಲ್ಲಾ ಅರ್ಜಿ ಅದ ನಂತರ ಅದನ್ನು ರಿಕಮ್ ಮಾಡಬೇಕಾಗುತ್ತದೆ. ಈ ರೀತಿ ನಾವು ಅಮೆಂಡ್‌ಮೆಂಟ್ ಮಾಡಿದರೆ ಅದಕ್ಕೆ ಪ್ರಸಿದ್ಧಿಯಿಂದ ಅನುಮತಿ ಸಿಕ್ಕಿದ ಮೇಲೆ ಇದು ಒಂದು ಕಾನೂನು ಆಗುತ್ತದೆ. ಇಂತಹ ಕೇಸುಗಳಲ್ಲಿ The Magistrate is not acting under the Cr. P.C. but under the Sales Tax Act. Even then unfortunately, a Ruling is there. What is the way to get over it? To make it very clear, the words 'notwithstanding anything contained in the Code of Criminal Procedure' are added. There are State subjects and concurrent subjects. Both State Government and Central Government can legislate under the concurrent subjects. When we legislate and get the assent of the President, it becomes Law, so far as Mysore is concerned. So, this type of complication does not arise.

ಶ್ರೀ ಕಾಗೋಡು ತಿಮ್ಮಪ್ಪ.—ಕ್ರಿಮಿನಲ್ ಪ್ರೊಸೀಜರಿನಲ್ಲಿರತಕ್ಕಂತಹ ೨ ಸಾವಿರ ರೂಪಾಯಿ ವ್ಯಾಪ್ತಿಯನ್ನು ನೀವು ಮ್ಯಾಜಿಸ್ಟ್ರೇಟರಿಗೆ ಕೊಡಬೇಕೆಂದು ಹೇಳುತ್ತಿದ್ದೀರಿ. ಅಂದರೆ ಮ್ಯಾಜಿಸ್ಟ್ರೇಟರ ವ್ಯಾಪ್ತಿ ಜಾಸ್ತಿ ಯಾಗುತ್ತದೆ.

SRI M. Y. GHORPADE.—We are not amending the Code of Criminal Procedure. ಸಕ್ಷನ್ ಏಲಿಶರ ಕೆಳಗಡೆ ಎರಡು ಸಾವಿರ ರೂಪಾಯಿ ಇದೆ. We have no intention of changing it. ತಕ್ಷಣ 386 ಅಟ್ರಾಕ್ಟ್ ಆಗುವುದು ಸರಿಯಲ್ಲ ಎಂದು ಈ ರೀತಿ ಬದಲಾವಣೆ ಮಾಡುವುದು ಇದು ಆಗಿದೆ.

ಕ್ರಿಮಿನಲ್ ಪ್ರೊಸೀಜರ್ ಕೋಡಿನಲ್ಲಿ ಎರಡು ಸಾವಿರ ಇರುತ್ತದೆ. ಆದರೆ ನಾವು ಅರಿಯಲ್ ಕಲೆಕ್ಟ್ ಮಾಡುವುದು ಅದಕ್ಕಿಂತಲೂ ಹೆಚ್ಚು ಇರುತ್ತದೆ. ಅದಕ್ಕೂ ಇದಕ್ಕೂ ಸಂಬಂಧವಿಲ್ಲವೆಂದು ಹೇಳಿದ ಹಾಗೆ ಆಗುತ್ತದೆ. ಫೈನ್ ಹಾಕುವಂತದ್ದು ಎರಡು ಸಾವಿರ ಇರಬಹುದು, ಅಥವಾ ೫ ಸಾವಿರ ಇರಬಹುದು. ಅದಕ್ಕೂ ಪ್ರೊಸೀಜರ್ ಇದೆ. ಎಲ್ಲಾ ಪ್ರೊಸೀಜರ್, ಅಪೀಲ್ ಅದ ನಂತರ ಕಲೆಕ್ಟ್ ಮಾಡ ಬೇಕಾಗುತ್ತದೆ.

He is not acting under the Code of Criminal Procedure but under the Sales Tax Act. There are various Rulings on this, but our High Court has made such a Ruling. Therefore, there is delay in going to Supreme Court and clarifying it. In the meanwhile, if we get the assent of the President and amend this, this can be overcome. We are not amending Code of Criminal Procedure. We are saying that in collecting the sales tax arrears, these sections of the Code of Criminal Procedure are not attracted. That is the purpose of adding the words: 'notwithstanding anything contained in the Code of Criminal Procedure'.

‡ SRI T. R. SHAMANNA.—This is a very simple Bill. Most of us are urging that all steps be taken to enforce payment of arrears of sales tax and also to collect the taxes efficiently and effectively. We are not, of course, objecting to the Amendment that has been moved to-day, because it is only an enabling Clause, whereby if highest penalty is levied, it may be collected without much difficulty.

I want to point out here that there are many judgments given by the Sales Tax Tribunal and the High Courts now-a-days, and there will be constant litigation and many of the merchants will be forced to go to the Court of Law. I suggest that taking into consideration some of the decisions the Sales Tax Act may be suitably amended to see that, as far as possible, the litigations are reduced, so that the merchants may not be forced to go to the Court of Law. So, a comprehensive Bill, taking into consideration all the judgments given by the Courts, should be brought. Every year, we will be finding an Amending Bill coming up. The Hon. Minister has promised he will be appointing a Committee. Since sales tax is going to stay eternally, and since it is a revenue that the State cannot afford to lose, I suggest that, after taking the Committee's suggestions, it is better to have a comprehensive enactment embodying almost all the provisions that are necessary. I, therefore, urge upon the Hon. Minister to see that, as early as possible, a comprehensive Amending Bill is taken up.

The merchants are put to certain harrassments and some tax evasions are also there. All steps may be taken to see that evasions are minimised and effective collections are made and, at the same time, minimum inconvenience is caused to the consumers and the traders. So, I only urge that a comprehensive Bill may be brought as early as possible, embodying all the particulars that are required to make collection of sales tax easy.

With these words, I commend the Bill to the House.

ಶ್ರೀ ಕಾಗೋಡು ತಿಮ್ಮಪ್ಪ.—ಅದ್ವೈತ, ಇದರಲ್ಲಿ ಮುಖ್ಯವಾಗಿ ಮ್ಯಾಜಿಸ್ಟ್ರೇಟ್ ಕೋರ್ಟು ವಸೂಲು ಮಾಡತಕ್ಕಂತಹ ಕ್ರಮ ಏನಿದೆ, ಇದು ಆ ಕೋರ್ಟುಗಳಿಗೆ ಅನಾವಶ್ಯವಾಗಿ ಕೆಲಸವನ್ನು ಕೊಡತಕ್ಕ ಕ್ರಮವಾಗಿದೆ, ಇದನ್ನು ಬೇರೆ ರೀತಿಯಲ್ಲಿ ವಸೂಲು ಮಾಡುವುದಕ್ಕೆ ಸಾಧ್ಯವಿದೆ. ಸೇಲ್ಸ್ ಟ್ಯಾಕ್ಸ್ ಅರಿಯರ್ಸ್ ಕಲೆಕ್ಟ್ ಮಾಡುವುದನ್ನು ಅವರಿಗೆ ಕೊಟ್ಟರೆ ಅಲ್ಲಿ ಬೇರೆ ಯಾವ ಕೆಲಸವೂ ಆಗುವುದಿಲ್ಲ. ತಾಲೂಕು ಆಫೀಸಿನಲ್ಲಿ ಶೇಕದಾರರು ಮಾಡತಕ್ಕ ಕೆಲಸ ಕೋರ್ಟಿಗೆ ಕೊಡುತ್ತಿದ್ದೀರಿ. ತಾಹಸೀಲ್ದಾರರು ಹೇಗೆ ವಾರಂಟ್, ಸರ್ಚ್ ಇತ್ಯಾದಿಗಳನ್ನು ಮಾಡತಕ್ಕ ಅಧಿಕಾರವನ್ನು ರೆವೆನ್ಯೂ ಇನ್ಸ್‌ಪೆಕ್ಟರ್‌ನಿಗೆ ಕೊಡುತ್ತಾರೆ, ಹಾಗೆಯೇ ಸೇಲ್ಸ್ ಟ್ಯಾಕ್ಸ್‌ನ್ನು ಕಲೆಕ್ಟ್ ಮಾಡತಕ್ಕಂತಹ ಅಧಿಕಾರವನ್ನು ಅಸಿಸ್ಟೆಂಟ್ ಸೇಲ್ಸ್ ಆಫೀಸರಿಗೆ ನೇರವಾಗಿ ಕೊಡಲು ಸಾಧ್ಯವಿದೆ. ಅಲ್ಲದೆ ಅನಾವಶ್ಯಕವಾಗಿ ಮ್ಯಾಜಿಸ್ಟ್ರೇಟ್‌ರಿಗೆ ಈ ಕೆಲಸವನ್ನು ಕೊಟ್ಟರೆ ಬಾಕಿ ಕೋರ್ಟುಗಳ ಕೆಲಸ ಹಾಗೆಯೇ ಬಾಕಿ ಉಳಿಯುತ್ತದೆ. ಇದು ಬೇರೆ ಪೋಸ್ಟ್ ಆಫೀಸ್ ಮಾಡುವಂತಹ ಕೆಲಸ. ಆದ್ದರಿಂದ ಇದನ್ನು ಕೋರ್ಟಿಗೆ ಕೊಡುವುದು ಸರಿಯಲ್ಲವೆಂದು ಹೇಳುತ್ತೇನೆ. You can enforce that power.

SRI M. Y. GHORPADE.—That also is there. Sometimes, we want the Magistrate to do it as if it was a fine for some reason. There seems to me a psychology. I must make a distinction. It is like going to a cinema. What is there? Instead of going to a Tahsildar's office, he can go to a court. But in certain sections of society, they consider this a more serious way than the normal way. They feel they can deal with the revenue authorities but not with the Magistrates in the same way.

ಶ್ರೀ ಕಾಗೋಡು ತಿಮ್ಮಪ್ಪ.—ಆ ವಿಷಯದಲ್ಲಿ ಮಾಡತಕ್ಕ ಕೆಲಸವನ್ನು ನೇರವಾಗಿ ನೀವೇ ಮಾಡಬೇಕು.

† ಶ್ರೀ ಎಂ. ವೈ. ಘೋರ್ಪಡೆ.—ಇದು ನಾನು ಆಗಲೇ ಹೇಳಿದ ಪ್ರಕಾರ ವ್ಯವಸ್ಥಿತ ರೀತಿಯಿಂದ ಕಲೆಕ್ಟ್ ಮಾಡಲಿಕ್ಕೆ ಸಾಧ್ಯ. ಅರಿಯರ್ಸ್ ಆಫ್ ಲ್ಯಾಂಡ್ ರೆವಿನ್ಯೂ ಬಗ್ಗೆ ಹೇಳುವುದಾದರೆ, ಮ್ಯಾಜಿಸ್ಟ್ರೇಟ್ ಕಡೆಯಿಂದ ನೋಟೀಸ್ ಬಂದರೆ ಸ್ವಲ್ಪ ಪರಿಣಾಮವಾಗುತ್ತದೆ.

ಶ್ರೀ ಕಾಗೋಡು ತಿಮ್ಮಪ್ಪ.—ಸಾಮಾನ್ಯವಾಗಿ ಕೋರ್ಟಿಗೆ ಹೋಗುವ ಕಾಲ ಬಂದಾಗ, ಅರಿಯರ್ಸ್ ಕೊಡಬೇಕೆಂದು ಹೇಳುತ್ತಾರೆ. ಈಗ ನಮ್ಮ ಅಧಿಕಾರಿಗಳಿಂದ ರಿಕವರಿ ಪವರ್ ಇದ್ದರೆ, ಮೇಲ್ದಿ ಕಾರಿಗಳು ಏಕೆ ಮಾಡಲಿಲ್ಲವೆಂದು ಕೇಳಬಹುದು. ಕೋರ್ಟಿಗೆ ಹೋದರೆ ೬ ತಿಂಗಳವರೆಗೆ ಅದನ್ನು ಇಡಬಿಡಬಹುದು ಮತ್ತು ೫೦ ರೂಪಾಯಿಗಳ ಕಂತಿನಲ್ಲಿ ಕೊಡುತ್ತಾರೆಂಬ ಅನುಭವ ನನಗೆ ಇದೆ. ೬ ತಿಂಗಳು ಒಂದೊಂದು ಸಾರಿ ಪೆಂಡಿಂಗ್ ಕೇಸಾಗಿ ಇರುತ್ತದೆ. ಕೋರ್ಟಿನವರು ಏಕೆ ವಸೂಲು ಮಾಡಲಿಲ್ಲವೆಂದು ನಿಮ್ಮ ಇಲಾಖೆಯವರು ಕೇಳುವ ಹಾಗಿಲ್ಲ. ಕೋರ್ಟಿನವರನ್ನು ನೀವು ಏಕೆ ಡಿಸ್‌ಪೋಜ್ ಮಾಡಲಿಲ್ಲ ಎಂದರೆ ಹೈಕೋರ್ಟಿನಿಂದ ಅರ್ಡರ್ ಬರಬೇಕೆಂದು ಹೇಳುತ್ತಾರೆ. ಮ್ಯಾಜಿಸ್ಟ್ರೇಟ್ ಕೋರ್ಟಿನಿಂದ ಹೈಗೆ ನೇರವಾಗಿ ಜುರರದನ್ಸ್ ಮಾಡಿ ವಸೂಲು ಮಾಡುವುದಕ್ಕಾಗುವುದಿಲ್ಲ. ಅದನ್ನು ತಪ್ಪಿಸಿ ನೀವು ಅಧಿಕಾರ ಇಟ್ಟುಕೊಂಡರೆ ಚೆನ್ನಾಗಿರುತ್ತದೆ. ಆಗ ಏಕೆ ರಿಕವರಿ ಮಾಡಲಿಲ್ಲವೆಂದು ಕೇಳುವುದಕ್ಕೆ ಅವಕಾಶವಿರುತ್ತದೆ.

ಶ್ರೀ ಎಂ. ವೈ. ಘೋರ್ಪಡೆ.—ನಾವು ನಮ್ಮ ಡಿಪಾರ್ಟ್‌ಮೆಂಟ್ ಆಫೀಸರಿಗೆ ಅಧಿಕಾರ ಕೊಟ್ಟಿದ್ದೇವೆ. ಅದರಿಂದ ಸ್ವಲ್ಪ ಹಿಂಸೆಯಾಗುತ್ತದೆಂದು ಹೇಳಿದರು. ಆದರೂ ಅದನ್ನು ಇಟ್ಟು ಕೊಂಡಿದ್ದೇವೆ. ಸಾಧ್ಯವಾಗದಿದ್ದರೆ ಒಂದೊಂದು ಸಾರಿ ಮ್ಯಾಜಿಸ್ಟ್ರೇಟ್ ಕಡೆಗೆ ಕಳುಹಿಸಬೇಕಾಗುತ್ತದೆ. ನೀವು ಹೇಳಿದ ಹಾಗೆ ಮ್ಯಾಜಿಸ್ಟ್ರೇಟ್‌ಗೆ ಕಳುಹಿಸುವುದನ್ನು ನಿಲ್ಲಿಸಿದರೆ ಅದನ್ನು ಡಿಪಾರ್ಟ್‌ಮೆಂಟಿನ ಮೂಲಕವಾಗಿಯಾದರೂ ಮಾಡಬೇಕೆಂದು ಹೇಳುತ್ತೇನೆ.

ಒಬ್ಬ ಸದಸ್ಯರು.—ತೆರಿಗೆ ಕೊಡುವವರಿಗೆ ೬ ತಿಂಗಳುಗಳವರೆಗೆ ಟೈಂ ಕೊಡಬೇಕು.

ಶ್ರೀ ಕಾಗೋಡು ತಿಮ್ಮಪ್ಪ.—ತಿಂಗಳಿಗೆ ಒಂದು ಭಾರಿ ಸ್ಟೇಟ್‌ಮೆಂಟ್ ಕೊಡುತ್ತಾರೆ. ಅನ್ಯಾಯಲ್ ರಿಟರ್ನ್ಸ್ ಬೇರೆ ಇರುತ್ತದೆ. ೨೦ ಸಾವಿರ ರೂಪಾಯಿಗಳಿಗಿಂತ ಜಾಸ್ತಿ ಆದಾಯ ಇದ್ದವರು ಆ ರೀತಿ ಕೊಡಬೇಕು. ಇಲ್ಲದಿದ್ದರೆ ಚಿಕ್ಕನಾಯಕನಹಳ್ಳಿ ಪ್ರಕರಣ ಮಾಡಿದಂತಾಗುತ್ತದೆ. ಅದ್ದರಿಂದ ತಮ್ಮ ಡಿಪಾರ್ಟ್‌ಮೆಂಟ್ ಮೂಲಕ ಒಂದು ಸ್ಕ್ಯಾಂಡಲ್ ಹಾಕಿ.

ಶ್ರೀ ಎಂ. ವೈ. ಘೋರ್ಪಡೆ.—ಇಪತ್ತು ಅದನ್ನು ಒಪ್ಪಿಕೊಳ್ಳುವುದಕ್ಕಾಗುವುದಿಲ್ಲ. ಅದಕ್ಕೆ ಏನಾದರೂ ಒಂದು ರೀತಿ ಬದಲಾವಣೆ ಮಾಡಬೇಕಾಗಿದೆ.

MR. DEPUTY SPEAKER :—The question is :

"That the Mysore Sales Tax (Second Amendment) Bill 1972 be taken into consideration."

*The motion was adopted.*

MR. DEPUTY SPEAKER :—Now, the Bill will be taken up clause by clause.

The question is :—

"That clause 2 to stand part of the Bill."

*The motion was adopted.*

Clause 2 was added to the Bill.

Clause 1, etc..

MR. DEPUTY SPEAKER :—The question is :

Clause 1, The long title and the Enacting Formula, to part of the Bill.

*The motion was adopted.*

Clause 1, long title and Enacting Formula were added to the Bill.

*Motion to pass*

SRI M. Y. GHORPADE.—I beg to move.

"That the Mysore Sales Tax (Second Amendment) Bill 1972 be passed."

MR. DEPUTY SPEAKER :—The question is

"That the Mysore Sales Tax (Second Amendment) Bill 1972 be passed."